

AMENDED IN SENATE AUGUST 6, 2002

AMENDED IN SENATE JUNE 20, 2002

AMENDED IN SENATE JUNE 6, 2002

AMENDED IN SENATE APRIL 10, 2002

AMENDED IN ASSEMBLY APRIL 16, 2001

AMENDED IN ASSEMBLY MARCH 26, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 468

Introduced by Assembly Member Firebaugh

February 21, 2001

An act to amend Section 14666.6 of, and to add Section 14666.8 to, the Government Code, relating to telecommunications, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 468, as amended, Firebaugh. State property: access: telecommunications.

(1) Existing law requires the Director of General Services, with the approval of the state agency concerned, and the Director of Transportation to negotiate in the name of the state, access to state-owned property, including rights-of-way, for those purposes and subject to those conditions, limitations, restrictions, and reservations determined by the director to be in the interest of the state. Existing law provides that this requirement to negotiate access applies to telecommunications and information technologies.

This bill would require the Director of General Services to compile and maintain an inventory of state-owned real property that may be available for lease to providers of wireless telecommunications services for location of wireless facilities. It would authorize the director to enter into an agreement for the lease of certain state-owned real property to any provider of wireless telecommunications services for location of its facilities, and would require that this lease, among other things, (1) provide for the use of the wireless provider's facilities located on the state-owned real property by any appropriate state agency if technically, legally, aesthetically, and economically feasible, and (2) facilitate, to the greatest extent possible, agreements among providers of wireless telecommunications services for colocation of their facilities on state-owned real property.

~~This bill would provide that a wireless telecommunications facility located on state-owned real property pursuant to a lease that meets these requirements, or agreements negotiated by the Director of Transportation for the placement of wireless telecommunications facilities on land or facilities owned or controlled by the Department of Transportation, would not be subject to the requirements of any local zoning ordinance or regulation.~~

The bill would require that 20% of the revenues from fees collected pursuant to these provisions, except for revenues from fees from a lease agreement for access to Department of Transportation property or a lease agreement existing prior to January 1, 2003, be available, upon appropriation by the Legislature, to be administered by the Public Utilities Commission to finance Digital Divide projects.

(2) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Wireless telecommunications service is a critical part of
- 4 California's infrastructure.
- 5 (b) The rapid deployment of wireless telecommunications
- 6 facilities is critical to ensure network access and quality of service.



1 (c) It is in the public interest to minimize the aesthetic impact
2 of wireless telecommunications towers and facilities necessary to
3 support wireless networks.

4 (d) Use of property owned by the state, local government
5 agencies, and other public entities for location of wireless
6 telecommunications facilities will expedite deployment of
7 wireless telecommunications service and minimize the aesthetic
8 impact of wireless telecommunications towers and facilities.

9 (e) A certain percentage of people have the best information
10 technology that our society has to offer. These people have the
11 most powerful computers, the best telephone and fastest Internet
12 services, as well as a wealth of content and training relevant to their
13 lives. There is another group of people that have very little
14 technology or service, if any at all. The difference between these
15 two groups is what has been called the “Digital Divide.”

16 (f) “Falling Through the Net: Toward Digital Divide
17 Inclusion,” a report published by the United States Department of
18 Commerce, determined that although more than one-half of all
19 households have computers and more than one-half of all
20 Americans were expected to be using the Internet by the middle of
21 2001, a Digital Divide remains or has expanded slightly in some
22 cases.

23 (g) Today, a large number of Americans are using the Internet
24 to conduct daily activities, including, but not limited to,
25 communication, shopping, entertainment, job searches, job
26 training, and educational enhancement. To be on the less fortunate
27 side of the Digital Divide means that individuals are not able to
28 participate in the world’s new information-based economy. Even
29 worse is that with the growth of the information-based economy,
30 people who lack access to those tools are becoming disadvantaged.

31 (h) Even with access to computers and the Internet, a divide is
32 emerging with relevant content and information available on the
33 Internet, as reported in The Children’s Partnership’s “Online
34 Content for Low-Income and Underserved Americans: The
35 Digital Divide’s New Frontier.” This report audited the content
36 available on the Internet and found that little content could be
37 found that addresses the interests and needs of local information
38 users, including needs of adults with limited literacy, that is
39 provided in a culturally relevant manner, or that is available in a
40 variety of languages.



1 (i) Raising the level of digital access by increasing the number
2 of Californians using the technology tools of the digital age is a
3 high priority in the State of California.

4 (j) Community technology programs serve Californians who
5 do and do not have computers and the Internet at home by
6 providing open access to, and opportunities for, training in
7 technology.

8 (k) Community technology programs that are trusted and
9 familiar places in neighborhoods are capable of attracting people
10 who would not otherwise have the opportunity to learn about and
11 use technology.

12 (l) According to the United States Department of Labor,
13 Bureau of Labor Statistics, employment in multimedia
14 occupations is projected to grow the fastest and increase more, by
15 5.3 million workers, than any other major group over the
16 1998–2008 period.

17 (m) Community technology programs prepare Californians for
18 the digital age and the ensuing economic opportunities that fuel
19 California's economy and make it the leader in technology.

20 SEC. 2. Section 14666.6 of the Government Code is amended
21 to read:

22 14666.6. (a) With the approval of the state agency concerned,
23 the director shall negotiate in the name of the state, access to
24 state-owned property, not used for highway purposes, for those
25 purposes and subject to those conditions, limitations, restrictions,
26 and reservations determined by the director to be in the best
27 interest of the state. To the extent permitted under existing law, the
28 director shall determine the amount of consideration for, and
29 means of access, which means shall include, but not be limited to,
30 any of the following: lease, permit, or other form of providing a
31 monetary or service consideration for the access.

32 (b) The Director of Transportation shall negotiate in the name
33 of the state, access to state-owned highway rights-of-way, for
34 those purposes and subject to those conditions, limitations,
35 restrictions, and reservations determined by the Director of
36 Transportation to be in the best interest of the state. To the extent
37 permitted under existing law, the Director of Transportation shall
38 determine the amount of consideration for, and means of access,
39 which means shall include, but not be limited to, any of the

1 following: lease, permit, or other form of providing a fair market
2 value monetary or service consideration for the access.

3 (c) This section applies to various telecommunications and
4 information technologies, including, but not limited to, voice,
5 data, video, and fiber-optic technologies.

6 (d) Any payments received under this section for a grant or
7 conveyance through land or facilities controlled by the
8 Department of Transportation, including but not limited to,
9 rights-of-way along the state highway system, shall be deposited
10 in the State Transportation Fund.

11 ~~(e) Agreements negotiated by the Director of Transportation~~
12 ~~for the placement of wireless telecommunications facilities on~~
13 ~~land or facilities owned or controlled by the Department of~~
14 ~~Transportation shall not be subject to the requirements of any local~~
15 ~~zoning ordinance or regulation. The director shall provide~~
16 ~~reasonable notice and opportunity for comment on that placement~~
17 ~~by the city or county in which the state-owned land or facilities are~~
18 ~~located.~~

19 SEC. 3. Section 14666.8 is added to the Government Code, to
20 read:

21 14666.8. (a) The director shall, within 120 days of the
22 effective date of this section, compile and maintain an inventory
23 of state-owned real property that it manages that may be available
24 for lease to providers of wireless telecommunications services for
25 location of wireless telecommunications facilities. This inventory
26 shall be the state's sole inventory of department-managed,
27 state-owned real property available for this purpose. ~~At the~~
28 ~~director's discretion, the director may charge an application or~~
29 ~~access fee for use of the inventory to pay the costs associated with~~
30 ~~compilation and maintenance of the inventory.~~

31 ~~(b) The director shall make the inventory available on the~~
32 ~~department's Web site, which may be subject to an access fee or~~
33 ~~subscription as determined by the director to pay the costs~~
34 ~~associated with the compilation and maintenance of the inventory.~~

35 ~~(c)~~

36 (b) On behalf of the state, the director may negotiate and enter
37 into an agreement to lease department-managed, state-owned real
38 property to any provider of wireless telecommunications services
39 for location of its facilities. A lease for this purpose shall do all of
40 the following:

1 (1) Provide for a fair market value rental fee to be paid to the
2 state to the extent permitted under existing law.

3 (2) Designate a lease term that is acceptable to the director. The
4 duration of the initial lease term for any such facility shall not
5 exceed 10 years, and may provide for a negotiated number of
6 renewal terms that do not exceed five years each.

7 (3) Provide for the use of the wireless provider's facilities
8 located on the state-owned real property by any appropriate state
9 agency if technically, legally, aesthetically, and economically
10 feasible.

11 (4) Facilitate, to the greatest extent possible, agreements
12 among providers of wireless telecommunications services for
13 collocation of their facilities on state-owned real property.

14 ~~(d) A wireless telecommunications facility located on~~
15 ~~state-owned real property pursuant to a lease that meets the~~
16 ~~requirements of subdivision (c) shall not be subject to the~~
17 ~~requirements of any local zoning ordinance or regulation. The~~
18 ~~director shall provide reasonable notice and opportunity for~~
19 ~~comment on that placement by the city or county in which the~~
20 ~~state-owned land or facilities are located.~~

21 ~~(e) The director shall develop and distribute materials for use~~
22 ~~by local government agencies that encourage these agencies to~~
23 ~~compile and maintain inventories of local agency owned real~~
24 ~~property that may be available to providers of wireless~~
25 ~~telecommunications services for the location of wireless~~
26 ~~telecommunications facilities.~~

27 ~~(f)~~

28 (c) (1) Of the revenues from fees collected pursuant to this
29 section after January 1, 2003, except for revenues from fees from
30 a lease agreement for access to Department of Transportation
31 property or a lease agreement existing prior to January 1, 2003, 20
32 percent shall be available, upon appropriation by the Legislature,
33 for the purpose of addressing the state's Digital Divide. These
34 revenues shall be maintained in a separate fund account to be used
35 only for Digital Divide pilot projects.

36 (2) The Public Utilities Commission shall administer these
37 funds in conjunction with its California Teleconnect Fund.

38 ~~(3) The first four pilot projects selected for funding based on~~
39 ~~these criteria, upon appropriation by the Legislature, shall include~~
40 ~~one statewide program currently engaged in technology diffusion~~

1 ~~with centers located in both rural and urban communities and one~~
2 ~~for a city in each of the following: Orange County, southeast Los~~
3 ~~Angeles, and a northern California bay area county. The~~
4 ~~Governor's annual budget proposal shall include funding for these~~
5 ~~four projects and all future Digital Divide projects.~~

6 (3) *The commission shall endeavor to provide grants pursuant*
7 *to this subdivision in a way that disburses the funds widely,*
8 *including urban and rural areas.*

9 (4) "Community technology programs" means a
10 community-based, nonprofit organization that is exempt from
11 taxation under Section 501(c)(3) of the Internal Revenue Code and
12 engaged in diffusing technology in local communities and training
13 local communities in the use of technology, especially local
14 communities that otherwise would have no access or limited
15 access to the Internet and other technologies.

16 (5) "Digital Divide projects" means community technology
17 programs involved in activities that include, but are not limited to,
18 the following:

19 (A) Providing open access to and opportunities for training in
20 technology.

21 (B) Developing content relevant to the interests and wants of
22 the local community.

23 (C) Preparing youth for opportunities in the new economy
24 through multimedia training and skills.

25 (D) Harnessing technology for e-government services.

26 ~~(g)~~

27 (d) Nothing in this section shall be construed to alter any
28 existing rights of telephone corporations under Section 7901 of the
29 Public Utilities Code.

30 SEC. 4. This act is an urgency statute necessary for the
31 immediate preservation of the public peace, health, or safety
32 within the meaning of Article IV of the Constitution and shall go
33 into immediate effect. The facts constituting the necessity are:

34 In order to make state-owned real property available for lease
35 at the earliest possible time, it is necessary for this act to go into
36 immediate effect.